



## DEFENCE ABUSE RESPONSE TASKFORCE

13/4043

12 April 2013

Dr Kathleen Dermody  
Committee Secretary  
Foreign Affairs, Defence and Trade References Committee  
Department of the Senate  
Parliament House, Canberra ACT 2600

Email: [fadt.sen@aph.gov.au](mailto:fadt.sen@aph.gov.au); [Kathleen.Dermody@aph.gov.au](mailto:Kathleen.Dermody@aph.gov.au)

Dear Dr Dermody

**Re: Inquiry into DLA Piper review and the Government's Response – Public hearing, Thursday 14 March 2013 – Questions on Notice**

Thank you for the opportunity for Taskforce Executive Director Matt Hall and myself to appear and provide evidence before the Committee on 14 March 2013.

Please find enclosed my response to the Questions on Notice received on 19 March 2013.

I also refer to your letter of 8 April 2013, seeking clarification in relation to the status of the 'Defence Abuse Reparation Scheme Guidelines' (the Scheme) and advice as to when it will be made publicly available. The Scheme was officially approved by the Prime Minister on 10 April 2013 and is now publicly available on the Taskforce's website [www.defenceabuseresponsetaskforce.gov.au](http://www.defenceabuseresponsetaskforce.gov.au). I enclose a final copy of the Scheme for your records and publication on your website.

Should you wish to discuss or require any further information in relation to this matter, please contact me

Yours sincerely

**The Hon Len Roberts-Smith RFD, QC**  
Chair  
Defence Abuse Response Taskforce

**Question on notice from hearing – Question number 1**

**Can the Defence Abuse Response Taskforce draw its attention to Dr Rumble's opening statement (tabled at the Senate Committee hearing on 14 March 2013), in particular to references from paragraph 16 onwards, and in particular to paragraph 28.**

Having had the opportunity to listen to and subsequently review Dr Rumble's opening statement, I would like to reiterate my previous comments as noted in my evidence (Hansard pg. 21), that Dr Rumble's broad concerns in relation to matters leading up to the establishment of the Taskforce, including the delay between the presentation of his report and the establishment of the Taskforce, or the provision of Volume 2 to the Secretary of Defence, are not matters for the Taskforce and should be directed to Defence.

More specifically, to address aspects of Dr Rumble's opening statement that directly related to the Taskforce, I would like to note that:

- In relation to Dr Rumble's uncertainty as to whether the Taskforce received Volume 2 of the report; my evidence provided to the Committee (Hansard pg. 15), included a tabled letter from DLA Piper that indicated that the Taskforce received Volume 2 on 27 February 2013.
- In relation to Dr Rumble's request that the Taskforce reconsider the allegations from scratch; as noted in my evidence (Hansard pg. 21), the Taskforce's Terms of Reference require the Taskforce to assess the findings of the DLA Piper review and the material gathered by that review, and any additional material available to the Taskforce concerning complaints of sexual and other forms of abuse by Defence personnel alleged to have occurred prior to 11 April 2011, the date of the announcement of the DLA Piper Review. In short, the Taskforce will therefore reconsider the allegations from scratch, in light of all the information and material, including that obtained by the Taskforce itself.

**Written Questions on Notice – Question number 2**

**Could the Defence Abuse Response Taskforce provide the Committee with details regarding how the Taskforce intends to process claims of abuse in Defence where a confidentiality agreement or a non-disclosure provision has been incorporated into a previously settled claim?**

The Taskforce is currently considering and has prioritised this issue. The Taskforce will ask the Commonwealth to grant a limited waiver of confidentiality obligations and/or deeds of release and indemnity to complainants who wish to report allegations about abuse to the Taskforce. Of course, as the Taskforce has no statutory power (unlike, for example, a Royal Commission) it could not compel disclosure of information or documents in breach of a lawful and binding agreement, unless the parties to it agree to a waiver or release.

**Written Questions on Notice – Question number 3**

**Could the Defence Abuse Response Taskforce clarify the eligibility rules under the Defence Abuse Reparation Scheme Guidelines, in particular, the rationale of the drafting of paragraph 3.1.4(d)? If a person suffered abuse in Defence prior to 11 April 2011 (which, in their view, was mismanaged but was eventually resolved) and the person wishes to raise the mismanagement of their abuse by the Defence with the Taskforce prior to 31 May 2013, would the person be eligible under the Defence Abuse Reparation Scheme Guidelines?**

Under the Guidelines if a complainant makes an allegation to either DLA Piper or the Taskforce, prior to 31 May 2013, that they allegedly suffered abuse in Defence which occurred before 11 April 2011, they may receive a reparation payment of up to \$45,000.

A separate additional reparation payment of \$5,000 may be available under clause 3.1.4(d)(ii) of the Guidelines to a complainant who alleges (prior to 31 May 2013) (i) that they made a verbal or written report or complaint about the alleged abuse to Defence or otherwise prior to 11 April 2011 (notwithstanding that the mismanagement by Defence may have occurred after 11 April 2011), and (ii) that the verbal or written report or complaint that the person made was then allegedly mismanaged by Defence.

#### Written Questions on Notice – Question number 4

The DLA Piper Review *Supplement to Volume 1* stated:

The scope of the Review included allegations of abuse by Defence personnel on people who were not Defence personnel, provided that abuse was perpetrated in connection with the Defence workplace or in the conduct of the perpetrator's Defence duties. There were very few such allegations but the Review did understand that such matters were within scope (p. 3).

**Do the Defence Abuse Reparation Scheme Guidelines exclude persons who were not Defence personnel at the time of the alleged abuse (para 3.1.4(c))? If so, will the Defence Abuse Response Taskforce consider amending its procedures to allow consideration of claims made by persons who were not Defence personnel at the time of the alleged abuse?**

The scope of the Scheme has been set by the Government. The “procedures” to which the question refers are the Guidelines adopted by the Government. The Taskforce must accordingly comply with them and does not have any authority to substantively “amend” them.

The Defence Abuse Reparation Scheme (the Scheme) is not open to all members of the public, nor is it open to all current or former Defence employees.

It is only open to a person who:

- allegedly suffered sexual or other abuse before 11 April 2011 while employed in Defence, and/or
- made a written/verbal complaint about alleged abuse before 11 April 2011, and that complaint was subsequently allegedly mishandled or mismanaged by Defence, and
- has complained to DLA Piper under its review, or the Taskforce (within the Governments publicly announced timeframe (i.e. by 31 May 2013)).

A person will therefore be eligible for a Reparation Payment if the Reparation Payments Assessor is satisfied that the person was (in addition to the other matters in 3.1.4 of the Guidelines), employed in Defence at the time of the alleged abuse (clause 3.1.4(c)). The definition of “employed in Defence” includes:

- (a) an employee of the Department of Defence, whether the person is or was so employed under a law of the Commonwealth or under a contract of service or apprenticeship, or

(b) a serving member of the Australian Defence Force including a member of the Australian Defence Force Reserves, or

(c) a cadet (who for example is presently known as an Australian Navy Cadet (ANC), Australian Army Cadet (AAC) or Australian Air Force Cadet (AAFC)).